Main Street Fairness Act
Rep. Bill Delahunt (MA-10)
FAQs
July 1, 2010

The Main Street Fairness Act was introduced to provide federal approval for an interstate sales tax collection agreement that helps state and local governments recover billions in uncollected sales tax revenues. The interstate agreement will streamline and simplify a multitude of existing sales taxes in order to make it easier for retailers to collect and remit sales tax revenues. Under this legislation, it is up to an individual state to decide whether or not it would like to participate in this interstate pact. Most local "mom and pop" retailers on Main Street pay sales taxes, but many online retailers find in confusing and complicated to comply with tax collection requirements. The lack of compliance places many retail stores at a competitive disadvantage.

1) How much are the states actually losing? Isn't a lot of this revenue already being collected?

a. This year, the states will lose an estimated $18.6 billion in uncollected sales taxes on remote transactions, based on conservative estimates. By 2012, the states will be losing at least $23 billion annually. From 2009-2012, these losses total around $55 billion. Given the continuing shift to internet transactions, without Congressional action, these losses will only increase - we're looking at a loss of $200 billion over the next decade. Other studies predict these losses will be even higher.

b. What does this look like in the states? In Massachusetts, the losses are currently estimated to be $300 to $500 million annually. In Indiana, e-commerce losses in 2012 alone will amount to $400 million – 45.4% of the FY2010 state budget shortfall. Florida will lose almost $1.5 billion in 2012, and California will lose over $4 billion.

c. As more and more shoppers are turning to the internet and other remote sources, these losses will continue to grow. In the past decade, while retail generally has struggled, internet retailing has exploded, far exceeding annual growth estimates.

2) Isn't this just a tax increase during tough economic times?

a. This is <u>not</u> a tax increase or a new tax. The goal is to make it easier to collect existing taxes. Our goal is to decrease the need for any new taxes, since sales tax revenues are important for balancing state and local budgets. Consumers already owe sales taxes on purchases whether or not the retailer actually collects them. The Main Street Fairness Act allows states to streamline and simplify the collection of existing sales taxes into one uniform system. This reduces compliance costs, removes administrative burdens for government and retailers, and makes the system less costly, and more fair and beneficial for everyone. Only the states that join the compact and harmonize their systems are granted authority to require collection. Moreover, by adopting this system, the consumer no longer bears the responsibility of remitting the tax.

3) Is this just a Democratic plan to raise taxes?

a. First, this is not a tax increase. It streamlines and cuts the red tape that retailers must deal with over the collection of exiting taxes. See #2.

b. Second, it is not a partisan issue. Since the bill was first introduced in Congress in 2003, it has been a bipartisan issue, led by Republicans when they controlled, and led by Democrats when they regained the majority. In the state legislatures, it has been equally embraced by Democrats and Republicans. The Pennsylvania GOP has included Streamlined legislation in their plan to raise revenue without raising taxes. Just last month, the state of Georgia, where the legislature and the Governor's office are controlled by Republicans, became the newest "streamlined" state when Governor Perdue signed the legislation.

c. This is not a partisan issue because legislators and business leaders across the political spectrum recognize that it's pro-business, it's not a tax increase, it's about fairness and modernization, and it's a win for everyone.

4) Isn't this just a bail-out for the states that have been irresponsible in spending their money?

a. The states are in dire straights – but it is not just because of the financial crisis. This uncollected revenue, which is conservatively estimated to be $8.6 billion in 2010, $37 billion by 2012, and increasing, is falling by the wayside because the current systems have failed to keep pace with the 21st century marketplace. In this case, the states have done the work, they have partnered with the business community to create a win-win situation, and Congress simply needs to step up to the plate.

b. No one likes paying taxes, but the fact is that sales and use taxes, which comprise up to a third of state budgets and a sixth of local budgets, fund schools, roads, police, firefighters – things that make America the competitive nation that it is; keep the American dream accessible to all citizens; and make it a beacon and aspiration for other nations. **According to the Multistate Tax Commission, every $1 billion dollars in lost state and local revenue would pay the salaries of more than 24,000 school teachers, 19,000 police officers or firefighters, or 27,000 hospital workers.**

5) Won't this place extra burdens on small businesses that are just struggling to survive?

a. To the contrary, the Main Street Fairness Act and the Streamlined Sales and Use Tax system eases burdens on all businesses, whether a "mom-and-pop" on Main Street or a megastore like Target or Wal-mart. That is why MFSA is supported by a broad sector of the business community, including the National Retail Federation, Retail Industry Leaders of America, International Council of Shopping Centers, Real Estate Investment Trusts Association, and a number of state-level chambers of commerce. NRF alone has 1.5 million members that employ 25 million people. The industries that support this legislation are the lifeblood of the American economy.

b. Right now, because of a tax system that was developed in the early 1900s, brick-and-mortar, Main Street businesses – the ones that create jobs, sponsor the Little League team, and allow consumers to truly see, touch, and experience retail products – are suffering. And it's not because of the price differential – remember, this is a tax that consumers owe, regardless of whether the seller chooses to collect it. It's the cost of collection. However, the states acknowledged the complexity of their systems and developed the Streamlined Sales and Use Tax Agreement to create harmony and uniformity, and transition to the 21st century marketplace.

c. The Streamlined Sales Tax Agreement and the Main Street Fairness reduces the collection costs on all businesses, regardless of size. However, it confers the greatest benefit on the smallest businesses, whose costs are proportionately the highest. The Streamlined Sales and Use Tax Agreement and the Main Street Fairness Act benefits businesses by:
    i. Requiring states to reasonably compensate **all sellers** for the cost of collection.
    ii. Dramatically simplifying current sales tax systems by putting in place uniform definitions, uniform and simpler exemption administration, rate simplification, state-level administration of all taxes, and uniform sourcing.
    iii. Utilizing existing technology to make the collection and remittance easier and cheaper. One company will be offering its software – which performs all of the calculations – at no cost to retailers.
    iv. Providing audit protection for all sellers that use a certified service provider, which, as noted above, may provide free services for the sellers.

d. Any business that claims this system will harm them or stifle business in some way is either unfamiliar with the Agreement and the federal legislation, or is trying to maintain a competitive advantage at the expense of Main Street America.

6) **Isn't this a tax on the Internet?**
   a. No, the Main Street Fairness Act simply grants authority to require collection of sales taxes, some of which may be on internet-based purchases.

   b. The Internet Tax Freedom Act of 1998 created a moratorium on taxation of the internet. In 2007, this moratorium was extended through 2014. Because Congressman Delahunt believes that the Internet, which is a vital commercial, informational and educational tool, should never be taxed, the Main Street Fairness Act would make this moratorium permanent, that is, the bill includes a permanent ban on internet taxes. .

7) **Isn't this unconstitutional?**

   a. In *Quill*, the Supreme Court found that the marketplace had evolved to a point where due process concerns i.e. fairness concerns were not an issue in allowing the states to require remote retailers to fulfill sales tax collection responsibility. The Court understood that geographic boundaries had become largely irrelevant in the context of economic and business activity. The Streamlined Sales and Use Tax Agreement and the Main Street Fairness Act address the only constitutional issue that was raised, which is the complexity of the different state tax systems and the potential burden on interstate commerce. The Agreement and the Act confer collection authority only to the states that have harmonized and simplified their tax systems, thereby removing any interstate commerce concerns.

   b. Moreover, Congressional ratification of the interstate compact is federalism in its purest form, preserving the states' authority under the Tenth Amendment, and Congress' fundamental, traditional Commerce Clause power.